

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

AARON CHERRY,

Case No. 19-cv-1894 (ADM/SER)

Plaintiff,

v.

REPORT AND RECOMMENDATION

RAMSEY COUNTY CORRECTIONAL
FACILITY,

Defendant.

In an order dated July 24, 2019, this Court identified a critical deficiency in the complaint of plaintiff Aaron Cherry. *See* ECF No. 5. Cherry had alleged that he was subjected to unlawful treatment while incarcerated at the Ramsey County Adult Detention Center, but he named only the jail itself as a defendant to this action. County jails, however, are not legal entities amenable to suit. *See De La Garza v. Kandiyohi County Jail, Correctional Institution*, 18 F. App'x 436 (8th Cir. 2001) (per curiam); 28 U.S.C. § 1915(e)(2)(B). Cherry was given 20 days to file an amended complaint naming at least one defendant against whom relief could be sought, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b). The Court's order was returned as undeliverable. ECF No. 6. Cherry provided a new address to the Court over the phone and the order was re-mailed on August 2, 2019. There is no indication that Cherry did not receive this order.

More than 20 days have now passed since the Court's order was mailed to Cherry at his updated address. Yet Cherry has not submitted an amended complaint naming a defendant amenable to suit. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

[Continued on next page.]

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT
PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: September 10, 2019

s/Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

*Cherry v. Ramsey County Correctional
Facility*
Case No. 19-cv-1894 (ADM/SER)

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).